

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MZ WALLACE INC.

Plaintiff,

v.

No. 18 CV 02265 (DLC)

SUE FULLER, D/B/A THE OLIVER  
THOMAS, and BLACK DIAMOND GROUP,  
INC.

Defendants.

BLACK DIAMOND GROUP, INC.

Counterclaim  
Plaintiff,

v.

MZ WALLACE INC.,

Counterclaim  
Defendant.

**DIRECT TESTIMONY WITNESS STATEMENT OF SARAH BROACH**

SARAH BROACH, being duly sworn, deposes and says:

1. I serve as the Director of Communications at MZ Wallace, Inc. ("MZ Wallace") and have held this position since mid-2015. In addition to my work at MZ Wallace, I am a part-time faculty member at Parsons School of Design. Since 2012, I have taught Professional Practice and Design in Fashion Systems to students in the Parsons Fashion Design and Society MFA Program.

2. Prior to working with MZ Wallace, I spent 15 years in public relations and marketing for luxury brands such as Paul Smith, Patrick Cox, Patrick Robinson and Dolce & Gabbana.

3. At MZ Wallace, I report to Kevin Mogyoros. MZ Wallace's social media manager, Molly Lucas, MZ Wallace's Public Relations manager Melanie Kimmelman, and copywriter Rebecca Daly report to me.

4. As Director of Communications at MZ Wallace, I am responsible for building strategy for MZ Wallace's customer facing marketing, public relations and corporate messaging.

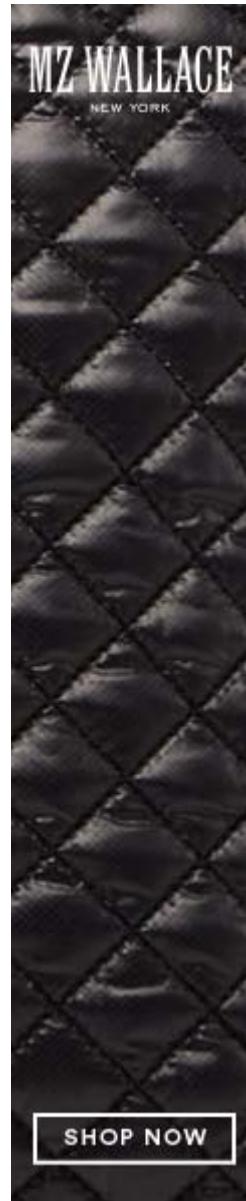
5. Customer facing marketing refers primarily to MZ Wallace's programmatic advertising, *i.e.*, digital ads served to a particular type of customer or potential customer on the internet based on their satisfaction of certain criteria. MZ Wallace generally does not advertise in traditional print media, although it has on several occasions in the past, such as in the Frieze Art Fair catalog books.

6. MZ Wallace targets its programmatic advertising to potential consumers in two general fashions. First, it targets its ads to individuals who would appreciate and purchase the products of MZ Wallace's competitors as well as to individuals who share the lifestyle of brand that may not technically be competitors to MZ Wallace. Second, it targets its ads towards people who live in the top urban areas in the United States, including San Francisco, Chicago, Los Angeles, Dallas, Miami, Boston, New York and the Northeast generally. MZ Wallace does not target its programmatic advertising by gender or age. And while MZ Wallace does not typically target based on income, it has in the past.

7. Since 2013, MZ Wallace's programmatic advertising has promoted products bearing the MZ Wallace Trade Dress on various online platforms, including traditional internet web pages, Facebook and Instagram. MZ Wallace started advertising on Facebook in 2015 and Instagram in 2016. Between 2014 and 2018, MZ Wallace has spent \$2,268,926 on digital advertising. Much of MZ Wallace's advertising features images of entire bags that incorporate the MZ Wallace Trade Dress. The 633 images comprising MZ Wallace's digital advertising and which feature the MZ Wallace Trade Dress from 2013 to 2018 are collected and submitted as Pl. Ex. 53 – Pl. Ex. 58. Since 2010, MZ Wallace's digital advertising has resulted in over 200 million impressions and 2.76 million clicks. Pl. Ex. 85.

8. Some of MZ Wallace's online advertisements were designed to remedy a particular marketing issue that MZ Wallace faced. Starting around 2015, MZ Wallace came to understand that potential customers, although familiar with the unique over-all quilted look of MZ Wallace's nylon bags and able to recognize those bags as coming from one particular source, did not actually know the name "MZ Wallace." To remedy this, MZ Wallace began to run digital advertising featuring just the words MZ Wallace (and sometimes "Shop Now") superimposed over a cropped image of nylon fabric bearing only the quilted Trade Dress. These ad images did not depict any MZ Wallace bag or even give indication what sort of product MZ Wallace sold.





To state the obvious, this advertising would not have made sense if potential customers did not already associate the MZ Wallace Trade Dress with MZ Wallace's products, even if they did not know the name MZ Wallace.

9. MZ Wallace's marketing also takes the form of email campaigns. Since 2010, MZ Wallace has promoted its products, including products bearing the trade dress, by way of email marketing campaigns delivered to MZ Wallace's email subscriber list. As of 11/15/18, 387,177 people have signed up to receive MZ Wallace promotional emails. Those subscribers include defendant Sue Fuller (subscribed July 16, 2017) , Black Diamond CEO Alan Lunder (subscribed July 31, 2017), and Black Diamond sales representative Carrie Hall (subscribed November 3, 2015). In January 2015, MZ Wallace introduced an MZ Wallace rewards program that allows frequent purchasers of MZ Wallace products to earn points that could be used towards future purchases. As of November 15, 2018, 59,149 have signed up for the rewards program, including Mr. Lunder, who signed up on May 17, 2018.

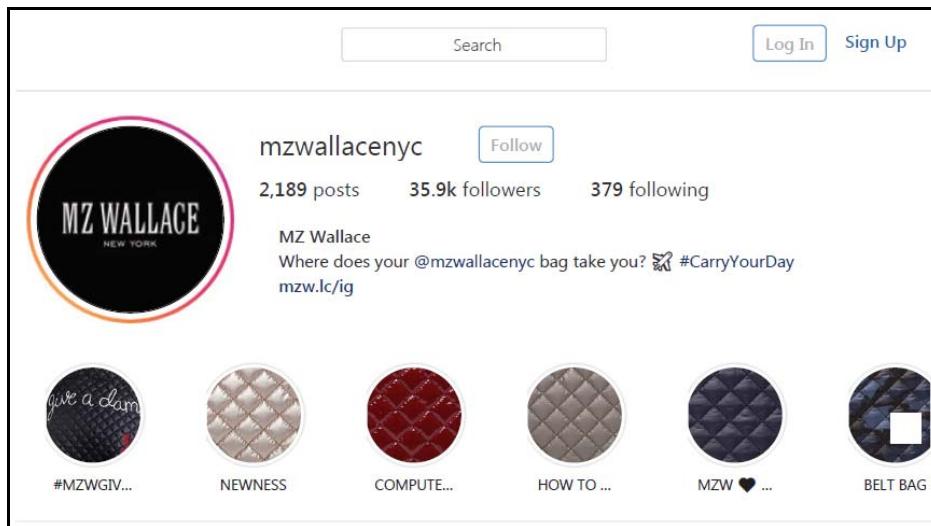
10. Between October 21, 2010 and September 9, 2018, MZ Wallace delivered 42,477,076 promotional emails, resulting in 10,067,343 unique opens. The average click through rate on these emails (*i.e.*, the percentage of recipients who click on the link inside the email) is 5.91%. Pl. Ex. 84. Industry average click through rate is between 1.5 and 2.5%.

11. Printouts of the 526 email promotional campaigns MZ Wallace has sent to its subscribers from 2012 through 8/30/2018 promoting MZ Wallace bags embodying the quilted trade dress are set forth at Pl. Ex. 60 - Pl. Ex. 66.

**B. Social Media Marketing**

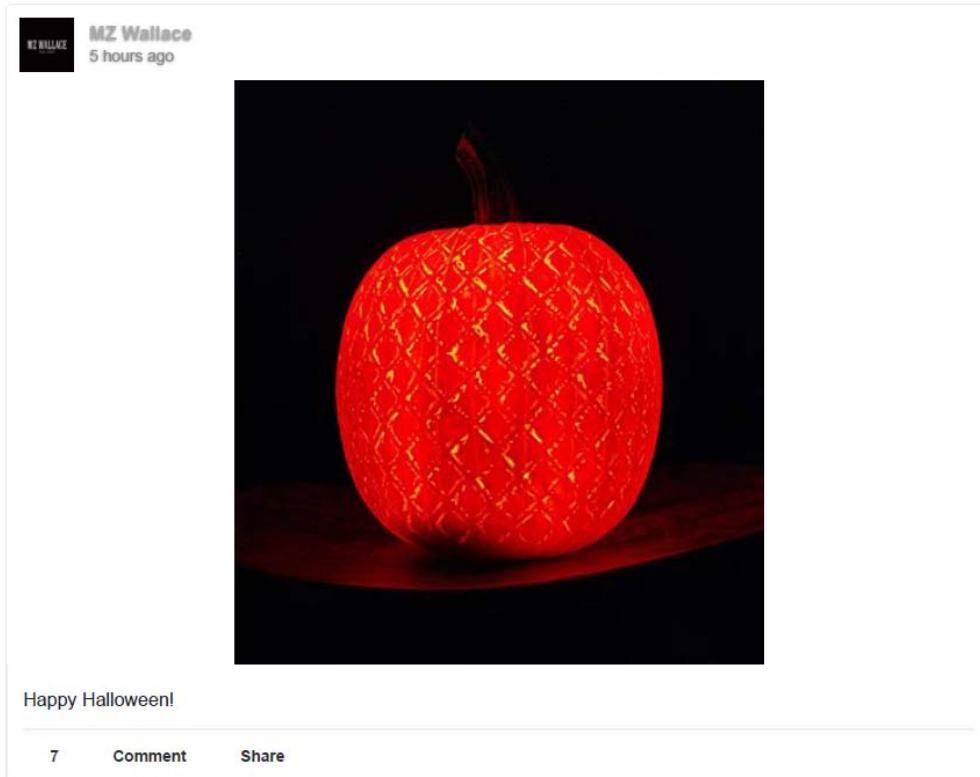
12. In addition to digital advertising on Instagram and Facebook, MZ Wallace's Instagram and Facebook pages themselves play a significant role in promoting MZ Wallace's products, including those bearing the MZ Wallace Dress.

13. MZ Wallace's Instagram account dates to July 31, 2011 and MZ Wallace has consistently used its account to promote MZ Wallace, its products, the MZ Wallace Trade Dress and complement MZ Wallace's other marketing and promotional efforts. The header of MZ Wallace's Instagram page as of October 2018 shows the MZ Wallace Trade Dress used as the design element for the various buttons associated with MZ Wallace's Instagram stories.



14. MZ Wallace's 2,131 Instagram posts from inception through September 7, 2018, the overwhelming majority depicting MZ Wallace products bearing the MZ Wallace Trade Dress, are set forth and submitted at Pl. Ex. 156.

15. Compared to Instagram, MZ Wallace uses Facebook more for brand education than customer engagement, but nevertheless considers Facebook an important tool to promote its products and the quilted trade dress. For example, for Halloween 2018, MZ Wallace posted an image on Facebook depicting the MZ Wallace Trade Dress on a Jack-O-Lantern.



16. Like many companies, MZ Wallace partners with social media influencers to promote MZ Wallace products on social media platforms such as Instagram. Under the typical influencer arrangement, MZ Wallace enters into an influencer marketing agreement with an individual that has a substantial social media following (typically greater than 15,000 followers) under which the individual agrees to post content about MZ Wallace on social media. MZ Wallace has employed influencer marketing since 2015. To date, MZ Wallace has worked with a total of 240 influencers.

17. Of course, not everyone who mentions MZ Wallace on social media channels is an influencer that MZ Wallace has paid to do so. MZ Wallace receives significant mentions on social media, both from customers who love MZ Wallace products and from boutiques who sell our product. A catalog of MZ Wallace social media mentions from

September 11, 2017 to September 10, 2018 is set forth in Pl. Ex. 78 and printouts of those mentions are set forth in Pl. Ex. 388

18. Since Oliver Thomas launched, we have seen several instances on social media in which people have confused MZ Wallace products with Oliver Thomas products.

19. On July 7, 2018, for example, Instagram user @taza posted the below image of herself carrying a yellow Metro Tote while crossing Central Park West.



Instagram user @charlottemcelroy commented “I spy @theoliverthomas☺.” Defendants then commented from their @theoliverthomas account: “Beautiful family. Some family nights need to go past bedtime.” Ultimately, MZ Wallace commented to correct the confusion: “@charlottemcelroy it’s actually our bag!” Pl. Ex. 141.

20. In August 2018, Instagram user @sambacow posted on the Oliver Thomas Instagram page “I’m confused, why are you modeling MZ Wallace bags in your photo? I’d love to see your original designs, heard they’re awesome.”



21. In October 2018, Instagram user @travlwithmee posted on the MZ Wallace Instagram page “@mzwallace – is Oliver Thomas your subbrand or a knock off”



Or place for a strap? Camo is my fave.

sleepyhead224 Really wish there was a dark blue with orange lining option, not a fan of camo....

travlwithmee @mzwallacenyc - is Oliver Thomas your subbrand or a knock off

94kalli @pirate213 I need

zilphiat More feminine color options please! Love it, not the color options

\_jhonig28 @briannnnamartino

briannnnamartino @\_jhonig28 omg I love that 😊

\_jhonig28 @briannnnamartino me too!!

800 likes

OCTOBER 21

Log in to like or comment.

<https://www.instagram.com/p/BpM-eAslVcd/>

22. In August 2018, MZ Wallace posted on its Instagram page an image of the underside of a Metro Tote along with the text “Keep it real. To spot an authentic MZ Wallace, look for the leather diamond logo that comes on every single one of our Metro Totes.”



mzwallacenyc Keep it real. To spot an authentic MZ Wallace, look for the leather diamond logo that comes on every single one of our Metro Totes. #CarryYourDay

Load more comments

mzwallacenyc @kristilovich woohoo! #CarryYourDay

mzwallacenyc @sharon9693 so happy to hear that!

mela3007 @natalieforsyth22 Thanks!!!

mela3007 @julesdash Thanks!!!

allynyc\_211 @mzwallacenyc ☺ any hints?!?!

mermaid\_vibez\_ My new obsession!!!! @mzwallacenyc

mzwallacenyc @mermaid\_vibez\_ 😊

marielvslondon Building my @mzwallacenyc metro tote collection, just

748 likes

AUGUST 25

Log in to like or comment.

The reason for this post was Oliver Thomas's sale of what we consider fake MZ Wallace bags.

We wanted to ensure that potential MZ Wallace customers were not duped into buying Oliver Thomas thinking it was MZ Wallace. We say "Keep it real" in this post. Oliver Thomas has used the tagline "Let's be real" in its promotional activity.

### C. Media Coverage

23. Over the years, MZ Wallace and its products have received significant press coverage in traditional and online media and since 2014, corresponding with the phenomenal success that MZ Wallace has enjoyed with the Metro Tote, the overwhelming majority of this press has featured MZ Wallace products bearing the MZ Wallace trade dress. A non-exhaustive list of the press that MZ Wallace has received since 2014 in which products bearing the MZ Wallace Trade Dress have been featured is set forth below.

Pl. Ex.	Date	Publication	MZW Product
117	11/20/2013	Cool Spotters	Metro Tote
71	00/00/2014	Self	Metro Tote
71	03/25/2014	More	Metro Tote
71	04/01/2014	More	Metro Tote
114	04/16/2014	Who What Wear	Metro Tote
71	05/26/2014	Us Weekly	Sutton
151	05/28/2014	Guest of A Guest	Metro Tote
71	07/25/2014	Vogue	Metro Tote
71	09/14/2014	Real Simple	Metro Tote
71	09/21/2014	The Wall Street Journal	Metro Tote
71	09/22/2014	The Wall Street Journal	Metro Tote
127	09/23/2014	Artnet	Metro Tote
115	09/29/2014	Harpers Bazaar	Metro Tote
71	10/02/2014	Style List	Metro Tote
104	10/10/2014	Self	Sutton
71	11/10/2014	Du Jour	Metro Tote
71	11/13/2014	New York Observer	Metro Tote
71	12/05/2014	Huffington Post	Metro Tote
72	00/00/2015	Glamour	Metro Tote
72	00/00/2015	New York Times	Metro Tote
72	01/26/2015	Matchbook	Metro Tote

72	01/26/2015	Teddi Set Go	Metro Tote
131	01/26/2015	Forbes	Metro Tote
72	02/13/2015	Skinny Mom	Metro Tote
72	03/00/2015	Womens Health	Metro Tote
101	03/11/2015	Furthermore	Metro Tote
125	04/03/2015	AARP Blog	Metro Tote
72	04/06/2015	Shape	Metro Tote, Cosmetics Bag, Laptop Case
72	04/06/2015	Whitewall	Metro Tote, Cosmetics Bag, Laptop Case
72	04/22/2015	InStyle	Metro Tote
136	04/22/2015	Instyle	Metro Tote, Computer Case, and Cosmetics Bag
143	04/22/2015	Food52	Metro Tote
72	04/24/2015	Huffington Post Travel	Metro Tote
72	06/05/2015	Lucky Shops	Metro Backpack
128	08/16/2015	Boston Globe	Metro Backpack
72	09/09/2015	Confessions of a Cookbook Queen	Metro Tote
72	09/11/2015	Equinox	Metro Backpack
72	10/01/2015	Self	Metro Backpack
72	10/13/2015	Health	Metro Tote
72	10/13/2015	Well Rounded NY	Metro Tote
72	11/00/2015	Health	Metro Tote
72	11/02/2015	Food and Wine	Metro Backpack
146	11/06/2015	Dailymail	Metro Tote
72	11/27/2015	Daily Burn	Metro Tote
72	12/01/2015	Shapes	Metro Tote
72	12/10/2015	WWD	Sutton
72	12/14/2015	Huffington Post Style	Metro Tote
72	12/14/2015	Self	Metro Tote
91	12/23/2015	Shape	Metro Tote
73	01/01/2016	Oprah	Matt Bag
73	01/13/2016	About	Matt Bag
73	01/23/2016	Us Weekly	Metro Tote
120	01/25/2016	Purse Blog	Metro Tote
96	01/26/2016	Lauren Conrad Blog	Sutton
73	01/27/2016	Starstyle	Metro Tote
73	02/01/2016	Cosmopolitan	Metro Backpack
73	02/01/2016	HI Luxury	Sutton

73	02/01/2016	Mens Fitness	Metro Tote
73	02/01/2016	Newsday	Metro Tote
73	02/15/2016	Accessories Magazine	Sutton
73	03/01/2016	Ala Moana	Sutton
73	03/01/2016	Self	Metro Tote
73	03/01/2016	Women's Health	Metro Tote
73	03/03/2016	Washingtonian	Sutton
133	03/07/2016	Health	Metro Tote
73	03/08/2016	Health	Metro Tote
73	03/10/2016	Flare	Metro Tote
73	03/22/2016	Instyle	Sutton, Metro Tote, Metro Backpack, Wallet
73	03/30/2016	The New York Times	Matt Bag
73	03/31/2016	The New York Times	Matt Bag
73	04/01/2016	People	Sutton
73	04/11/2016	Star	Metro Tote
138	04/18/2016	Marie Claire	Metro Backpack
73	04/26/2016	Accessories Magazine	Sutton
73	04/29/2016	Fox News	Metro Tote
73	05/05/2016	Fab Fit Fun	Metro Tote
73	05/12/2016	US Weekly	Metro Tote
73	05/23/2016	Vogue	Metro Tote
116	06/02/2016	Vogue	Crosby
73	06/20/2016	Ok Magazine	Metro Backpack
73	07/06/2016	The Times (London)	Metro Tote
73	07/10/2016	San Francisco Chronicle	Metro Tote
73	07/15/2016	Marieclaire	Jim Bag
73	07/20/2016	MSN	Jim Bag
73	07/25/2016	InStyle	Metro Tote
73	08/00/2016	OK!	Metro Tote
73	08/01/2016	Allure	Metro Backpack
73	08/10/2016	The Zoe Report	Metro Tote
95	08/16/2016	Olivia Jeanette	Metro Tote and Crosby Cosmetic Bag
73	08/18/2016	Health	Metro Backpack
73	08/30/2016	Instyle	Metro Tote
154	08/31/2016	Popsugar	Metro Tote
73	09/28/2016	Boston Magazine	Metro Tote
73	10/01/2016	Scottsdale Health	Matt Bag
73	11/01/2016	Accessories Magazine	Metro Backpack
73	11/02/2016	Bon Traveler	Metro Tote

73	11/08/2016	Well + Good	Metro Tote
86	11/15/2016	Brit + Co	Metro Backpack
73	11/21/2016	Ok!Weekly	Metro Tote
142	11/21/2016	Haute Off The Rack	Metro Backpack
73	11/23/2016	Muscle & Fitness	Metro Backpack
73	11/28/2016	Star Magazine	Metro Backpack
74	00/00/2017	Atelier Dore	Metro Tote
74	00/00/2017	InStyle	Metro Tote
74	00/00/2017	Key Biscayne Magazine	Metro Tote
74	00/00/2017	Teen Vogue	Sutton
74	00/00/2017	Womens Health	Metro Tote
74	01/00/2017	Essence	Matt Bag
73	01/01/2017	Essence	Matt Bag
74	01/01/2017	Delaware Today	Metro Tote
74	01/03/2017	Health	Metro Tote
74	01/03/2017	Yahoo News	Metro Tote
73	01/09/2017	OK!	Metro Tote
74	01/10/2017	The Strategist	Metro Tote
92	01/10/2017	New York Magazine	Metro Tote
74	01/14/2017	SELF	Metro Backpack
74	01/17/2017	Health	Metro Tote
74	01/26/2017	AOL	Metro Backpack
74	02/04/2017	Toronto Star	Metro Tote
74	02/08/2017	Garance Dore	Metro Tote
74	02/09/2017	Business Insider	Metro Tote
74	02/23/2017	IronMan Magazine	Sutton
74	02/27/2017	OK!	Metro Tote
74	03/15/2017	Business Insider	Metro Tote
74	04/01/2017	Cookies and Cups	Metro Tote
74	04/02/2017	Kansas City Star	Metro Tote
74	04/17/2017	L'Officiel Germany	Matt Bag
74	05/00/2017	Daily Mom	Metro Tote
74	05/01/2017	Palm Beach Illustrated	Metro Tote
74	05/08/2017	Chase For Business	Crosby, Metro Backpack, Metro Tote, Sutton
74	05/15/2017	Accessories Magazine	Sutton
74	05/16/2017	Pop Sugar	Metro Backpack
74	05/22/2017	OK!	Metro Tote
98	05/29/2017	A Piece of Elise	Crosby
74	05/31/2017	WWD	Metro Tote
74	06/02/2017	Buzzfeed	Metro Backpack

74	06/07/2017	Palm Beach Illustrated	Metro Tote
74	06/08/2017	Well+Good	Metro Tote
74	06/15/2017	Forbes	Crosby, Metro Backpack, Metro Tote, Sutton
74	06/19/2017	People	Metro Tote
74	06/23/2017	Elle	Metro Tote
74	06/26/2017	Elle	Metro Tote
74	07/01/2017	Macon Magazine	Metro Tote
74	07/14/2017	People	Metro Tote
74	07/24/2017	Star	Jim Bag
74	08/21/2017	Star	Metro Backpack
74	08/25/2017	Life in Leggings	Metro Backpack
74	08/25/2017	Fashionista	Metro Backpack
74	09/00/2017	Womens Health	Metro Backpack
124	09/15/2017	Women's Health	Metro Backpack
152	09/15/2017	Health	Jim Bag
74	09/23/2017	In Style	Jim Bag
74	10/01/2017	Health	Jim Bag
157	10/04/2017	Architectural Digest	Green Camo Bags
88	10/10/2017	Women's Health	Metro Tote
90	10/13/2017	New York Times	Metro Tote
74	10/19/2017	Women's Health	Metro Tote
74	10/23/2017	Business Insider	Metro Tote
74	10/24/2017	Forbes	Brand generally
87	10/24/2017	Essence	Metro Tote
74	11/00/2017	Atelier Dore	Metro Tote
121	11/02/2017	Well + Good	Metro Backpack
74	11/08/2017	Marie Claire.pdf	Matt Bag
74	11/08/2017	Health	Metro Backpack
74	11/16/2017	Well + Good	Metro Backpack
126	11/27/2017	Architectural Digest	Metro Tote
140	11/28/2017	Marie Claire	Matt Bag
74	11/30/2017	Architectural Digest	Metro Tote
74	12/06/2017	Star	Metro Tote
74	12/08/2017	Baltimore Magazine	Metro Backpack
74	12/11/2017	Gotham	Metro Tote
74	12/11/2017	LA Confidential	Metro Tote
74	12/21/2017	People	Flat Pouch
155	12/22/2017	Popsugar	Matt Bag
74	12/28/2017	OK	Matt Bag
150	12/30/2017	Slate	Metro Tote

75	01/01/2018	Bergen Health & Life	Metro Tote
75	01/01/2018	Oprah	Jimmy Bag
75	01/01/2018	San Diego Magazine	Metro Backpack
75	01/04/2018	Well+Good	Metro Tote
75	01/08/2018	Star	Metro Tote
75	01/16/2018	In Style	Sutton
134	01/22/2018	Instyle	Metro Tote
75	01/26/2018	Gotham	Metro Tote
99	01/31/2018	A Piece of Elise	Metro Tote and Jim Bag
75	02/01/2018	Marth Stewart Living	Metro Tote
75	02/01/2018	Oprah Valentine's	Metro Pouch
75	02/04/2018	PopSugar	Metro Tote
75	02/05/2018	Men's Health	Matt Bag
75	02/12/2018	World Bride	Metro Tote
111	02/21/2018	Health	Metro Tote
75	02/24/2018	Travel+Leisure	Metro Tote
75	03/01/2018	Health&Life	Metro Tote
97	03/02/2018	Very Well Fit	Matt Bag
137	03/09/2018	LA Confidential	Jim Bag
75	03/28/2018	PopSugar	Metro Tote
75	04/01/2018	Simply Buckhead	Crosby Backpack
108	04/10/2018	Popsugar	Metro Tote
75	04/12/2018	People	Crosby Traveler
75	04/13/2018	Shape	Metro Tote
75	04/20/2018	Furthermore	Metro Tote
75	04/23/2018	USWeekly	Metro Pouch
75	04/30/2018	OK!	Metro Tote
75	05/07/2018	Glam	Metro Tote
75	05/10/2018	Fast Company	Crosby Traveler
75	05/10/2018	Women's Health	Metro Tote
109	05/21/2018	Prevention	Metro Tote
103	05/22/2018	Kristy Wicks	Metro Tote, Sutton, Crosby Traveler, and Crosby
75	05/30/2018	Cheddar TV	Metro Tote
75	06/07/2018	Palm Beach Illustrated	Metro Tote
75	06/13/2018	Man Repeller	Metro Tote
75	06/18/2018	Health	Metro Pouch
75	06/21/2018	Marie Claire	Metro Backpack
148	06/26/2018	New York Magazine	Metro Tote
75	06/27/2018	Cookies and Cups	Metro Tote

107	07/03/2018	Popsugar	Metro Tote
75	07/05/2018	Vogue	Matt Bag
75	07/05/2018	Yahoo	Matt Bag
141	07/07/2018	Instagram	Metro Tote
75	07/17/2018	Shape	Matt Bag
75	07/18/2018	Us Weekly	Metro Backpack
75	07/30/2018	NY Magazine	Crosby Traveler
75	08/01/2018	RED Magazine	Metro Tote
75	08/10/2018	Self	Metro Backpack
75	08/16/2018	Nylon	Metro Backpack
75	08/21/2018	Fashion Magazine	Metro Tote
75	09/00/2018	Cosmo	Metro Tote
413	10/24/2018	Glamour	Metro Tote
412	11/01/2018	Well+Good	Metro Tote
411	11/05/2018	Vogue	Metro Tote
410	11/09/2018	Coveteur	Metro Tote
409	11/15/2018	Entrepreneur	Metro Tote

24. In addition to the above press, MZ Wallace bags bearing the MZ Wallace trade dress are frequently included in product roundups, where they are praised as the best bag for a particular occasion. A non-exhaustive list of the product roundups since January 2017 that have featured MZ Wallace products bearing the MZ Wallace Trade Dress is set forth below:

Date	Title	Publication	URL	Product
11/6/18	Where to Shop the Luggage Your Favorite Celebs Are Always Traveling With	People	<a href="https://people.com/home/celebrity-travel-bags-and-suitcases/">https://people.com/home/celebrity-travel-bags-and-suitcases/</a>	Metro Tote
11/6/18	28 Fitness Gifts For Your Friend Who Only Wears Black	Pop Sugar	<a href="https://www.popsugar.com/fitness/Black-Workout-Gifts-44208903?stream_view=1#photo-44208905">https://www.popsugar.com/fitness/Black-Workout-Gifts-44208903?stream_view=1#photo-44208905</a>	Matt Bag
11/6/18	10 Best Gym Bags That Are as Stylish as You	Prevention	<a href="https://www.prevention.com/fitness/a20512342/best-gym-bags-for-women/">https://www.prevention.com/fitness/a20512342/best-gym-bags-for-women/</a>	Metro Tote
11/6/18	The 8 best tote bags for travelling	IOL South Africa	<a href="https://www.iol.co.za/travel/travel-tips/the-8-best-tote-bags-for-travelling-">https://www.iol.co.za/travel/travel-tips/the-8-best-tote-bags-for-travelling-</a>	Metro Tote

			<u>17792573</u>	
11/2/18	The Best Tote Bags to Bring on a Flight	Conde Nast Traveler	<a href="https://www.cntraveler.com/gallery/the-best-tote-bags-to-bring-on-a-flight">https://www.cntraveler.com/gallery/the-best-tote-bags-to-bring-on-a-flight</a>	Metro Tote
10/19/18	The 8 Best Yoga Mat Bags to Buy in 2018	Very Well Fit	<a href="https://www.verywellfit.com/best-yoga-mat-bags-4159770">https://www.verywellfit.com/best-yoga-mat-bags-4159770</a>	Matt Bag
10/10/18	New This Week, Under \$250	New York Times	<a href="https://www.nytimes.com/2018/10/10/style/retail-new-this-week-under-250.html">https://www.nytimes.com/2018/10/10/style/retail-new-this-week-under-250.html</a>	Metro Tote
10/5/18	10 Stylish Gym Bags You Won't Be Embarrassed to Bring to Work	Health	<a href="https://www.health.com/style/best-gym-bags-for-women">https://www.health.com/style/best-gym-bags-for-women</a>	Metro Tote
10/2/18	The 13 Best Gym Bags For Women	Women's Health Magazine	<a href="https://www.womenshealthmag.com/fitness/a19964726/gym-bags/">https://www.womenshealthmag.com/fitness/a19964726/gym-bags/</a>	Metro Tote
9/20/18	The 15 Best Tote Bags for All Your Travel Needs	Travel + Leisure	<a href="https://www.travelandleisure.com/style/travel-bags/best-travel-tote-bags">https://www.travelandleisure.com/style/travel-bags/best-travel-tote-bags</a>	Metro Tote
9/18/18	The essential gym bag roundup	Time Out	<a href="https://www.timeout.com/usa/shopping/best-gym-bags">https://www.timeout.com/usa/shopping/best-gym-bags</a>	Metro Tote
9/4/18	The Best Work Bags for Every Career Woman's Budget	Swirled	<a href="https://swirled.com/best-bags-for-work/">https://swirled.com/best-bags-for-work/</a>	Metro Tote
8/31/18	Travel in Style This Labor Day Weekend	Elite Traveler	<a href="https://www.elitetraveler.com/features/143945">https://www.elitetraveler.com/features/143945</a>	13" Computer Case
8/12/18	The 7 Best Work Bags for Women to Buy in 2018	The Balance Small Business	<a href="https://www.thebalancesmb.com/best-work-bags-for-women-4171268">https://www.thebalancesmb.com/best-work-bags-for-women-4171268</a>	Metro Tote
8/10/18	16 Cute Backpacks That Won't Make You Look Like You're Going Back to School	Self	<a href="https://www.self.com/gallery/cute-backpacks">https://www.self.com/gallery/cute-backpacks</a>	Metro Backpack
7/30/18	The Best Diaper Bags (That Aren't Actually Diaper Bags), According to Moms	New York Magazine (The Strategist)	<a href="http://nymag.com/strategist/article/best-diaper-bags.html">http://nymag.com/strategist/article/best-diaper-bags.html</a>	Crosby Traveller
7/24/18	21 Weekender Bags Travel Pros	Reader's Digest	<a href="https://www.rd.com/advice/travel/weekender-bags/">https://www.rd.com/advice/travel/weekender-bags/</a>	Jim Bag

	Swear By			
7/18/18	Camouflage Workout Clothes That Will Make You Feel Tough AF	Shape	<a href="https://www.shape.com/fitness/clothes/camouflage-workout-clothes-that-will-make-you-feel-tough-af">https://www.shape.com/fitness/clothes/camouflage-workout-clothes-that-will-make-you-feel-tough-af</a>	Matt Bag
7/6/18	7 work bags that will keep your life organized	Fast Company	<a href="https://www.fastcompany.com/40578204/7-work-bags-that-will-keep-your-life-organized">https://www.fastcompany.com/40578204/7-work-bags-that-will-keep-your-life-organized</a>	Crosby Tote
7/5/18	The Best Clothes to Work Out (and Sweat) in All Summer	Vogue	<a href="https://www.vogue.com/article/summer-work-out-clothes-shopping-guide">https://www.vogue.com/article/summer-work-out-clothes-shopping-guide</a>	Matt Bag
7/3/18	Time to Replace Your Old Tote With One of These Cute Gym Bags	Pop Sugar	<a href="https://www.popsugar.com/fitness/photo-gallery/45009140/image/45009138/MZ-Wallace-Medium-Metro-Tote">https://www.popsugar.com/fitness/photo-gallery/45009140/image/45009138/MZ-Wallace-Medium-Metro-Tote</a>	Metro Tote
6/26/18	What Is The Best Work Bag for Women?	New York Magazine (The Strategist)	<a href="http://nymag.com/strategist/article/best-work-bags-for-women.html">http://nymag.com/strategist/article/best-work-bags-for-women.html</a>	Metro Tote
6/20/18	12 Backpacks That Will Make You Rethink Your Go-To Bag	Marie Claire	<a href="https://www.marieclaire.com/fashion/g21349082/best-backpacks-for-women/">https://www.marieclaire.com/fashion/g21349082/best-backpacks-for-women/</a>	Metro Backpack
6/3/18	Hitting the gym this summer? Invest in one of the new season sports bags	Malay Mail	<a href="https://www.malaymail.com/s/1637781/hitting-the-gym-this-summer-invest-in-one-of-the-new-season-sports-bags">https://www.malaymail.com/s/1637781/hitting-the-gym-this-summer-invest-in-one-of-the-new-season-sports-bags</a>	Metro Tote
5/11/18	It's In The Tote, Baby!	Key Biscayne Magazine	<a href="http://keybiscaynemag.com/its-in-the-tote-baby/">http://keybiscaynemag.com/its-in-the-tote-baby/</a>	Metro Tote
5/10/18	6 Carry-On Bags That Will Make Business Trips Less Stressful	Fast Company	<a href="https://www.fastcompany.com/40565410/five-carry-on-bags-that-will-make-business-trips-less-stressful">https://www.fastcompany.com/40565410/five-carry-on-bags-that-will-make-business-trips-less-stressful</a>	Crosby Traveler
5/7/18	8 Last Minute Gift Ideas All Moms Will Appreciate	Glam	<a href="https://www.glam.com/8-last-minute-mothers-day-gifts/">https://www.glam.com/8-last-minute-mothers-day-gifts/</a>	Metro Tote
4/20/18	Elevated Carry-On Essentials	Furthermore from Equinox	<a href="https://furthermore.equinox.com/articles/2018/04/carry-on-essentials">https://furthermore.equinox.com/articles/2018/04/carry-on-essentials</a>	Metro Tote
4/12/18	10 Perfect Baby	People	<a href="https://people.com/royals/">https://people.com/royals/</a>	Crosby Traveler

	Gifts We'd Get Kate Middleton (If We Were Invited to Her Baby Shower!)		<a href="https://www.slate.com/human-interest/2017/12/the-best-gym-bags-according-to-experts.html">https://www.slate.com/human-interest/2017/12/the-best-gym-bags-according-to-experts.html</a>	
3/9/18	8 Stylish Fitness Accessories That Are Fun & Functional	Los Angeles Confidential	<a href="https://la-confidential-magazine.com/stylish-fitness-accessories">https://la-confidential-magazine.com/stylish-fitness-accessories</a>	Jim Bag
3/4/18	10 Insanely Cute Gym Bags That Will Motivate You to Get Out of the House	Pop Sugar	<a href="https://www.popsugar.com/fitness/Cute-Gym-Bags-2018-44544703?stream_view=1#photo-44544859">https://www.popsugar.com/fitness/Cute-Gym-Bags-2018-44544703?stream_view=1#photo-44544859</a>	Metro Tote
2/11/18	What To Wear For That Valentine's Day Proposal	World Bride Magazine	<a href="http://worldbridemagazine.com/15672/wear-valentines-day-proposal/">http://worldbridemagazine.com/15672/wear-valentines-day-proposal/</a>	Metro Tote
2/5/18	10 Fitness-Themed Valentine's Day Gifts She'll Absolutely Love	Men's Health	<a href="https://www.menshealth.com/fitness/a19547098/valentines-day-fitness-gifts-for-her/">https://www.menshealth.com/fitness/a19547098/valentines-day-fitness-gifts-for-her/</a>	Matt Bag
1/23/18	26 things we always pack when we travel	Business Insider	<a href="https://www.businessinsider.com/travel-packing-list-must-haves-2017-1">https://www.businessinsider.com/travel-packing-list-must-haves-2017-1</a>	Metro Tote
1/22/18	11 Editor-Approved Items That Will Transform Your New Year	InStyle	<a href="https://www.instyle.com/lifestyle/best-editor-tested-products">https://www.instyle.com/lifestyle/best-editor-tested-products</a>	Metro Tote
1/12/18	11 Fitness Fashion Finds for the New Year	San Diego Magazine	<a href="https://www.sandiegomagazine.com/San-Diego-Magazine/January-2018/11-Fitness-Fashion-Finds-for-the-New-Year/">https://www.sandiegomagazine.com/San-Diego-Magazine/January-2018/11-Fitness-Fashion-Finds-for-the-New-Year/</a>	Metro Backpack
1/10/18	Self-Care With Taryn Toomey of The Class	Martha Stewart	<a href="https://www.marthastewart.com/1524650/taryn-toomey-the-class">https://www.marthastewart.com/1524650/taryn-toomey-the-class</a>	Metro Tote
12/30/17	The Best Gym Bags	Slate	<a href="https://slate.com/human-interest/2017/12/the-best-gym-bags-according-to-experts.html">https://slate.com/human-interest/2017/12/the-best-gym-bags-according-to-experts.html</a>	Metro Tote
12/12/17	50 Under \$50: Your Ultimate Memphis Holiday Gift Guide	Style Blueprint	<a href="https://styleblueprint.com/memphis/everyday/holiday-gift-guide-memphis/">https://styleblueprint.com/memphis/everyday/holiday-gift-guide-memphis/</a>	Cosmetic Bag
12/8/17	Gifts For Every	Gotham	<a href="https://gotham.com/gifts-for-every">https://gotham.com/gifts-for-every</a>	Metro Tote

	Person On Your Holiday Shopping List		<a href="http://magazine.com/gifts-for-everyone-on-your-list">magazine.com/gifts-for-everyone-on-your-list</a>	
12/6/17	Home shopping guide, holiday edition	Curbed	<a href="https://www.curbed.com/2017/6/27/15771550/best-home-goods-shopping-advice">https://www.curbed.com/2017/6/27/15771550/best-home-goods-shopping-advice</a>	Metro Tote
11/28/17	Gift Guide! The Travel Edit	Atelier Dore	<a href="http://www.atelierdore.com/theminis/gift-guide-the-travel-edit/">http://www.atelierdore.com/theminis/gift-guide-the-travel-edit/</a>	Metro Tote
11/27/17	13 Luxury Gifts for the Really Special People in Your Life	Architectural Digest (Clever)	<a href="https://www.architecturaldigest.com/story/luxury-gifts-for-really-special-people">https://www.architecturaldigest.com/story/luxury-gifts-for-really-special-people</a>	Metro Tote
11/16/17	Healthy Holiday Gift Guide: What to Get the Fitness Fanatic on Your List	Well + Good	<a href="https://www.wellandgood.com/good-sweat/healthy-holiday-gift-guide-fitness-fanatic/">https://www.wellandgood.com/good-sweat/healthy-holiday-gift-guide-fitness-fanatic/</a>	Metro Backpack
11/8/17	12 Fitness Gifts That Definitely Won't Get Tossed in a Corner or Draped with Clothes	Marie Claire	<a href="https://www.marieclaire.com/health-fitness/g13444125/best-fitness-gifts/">https://www.marieclaire.com/health-fitness/g13444125/best-fitness-gifts/</a>	Matt Bag
11/2/17	Take A Load Off with One of These 16 Cool Backpacks that Double As Gym Bags	Well + Good	<a href="https://www.wellandgood.com/good-looks/cool-backpack-gym-bags-fall-2017/">https://www.wellandgood.com/good-looks/cool-backpack-gym-bags-fall-2017/</a>	Metro Tote
10/19/17	The Best Tote Bags Built to Really Lug Your Stuff	Women's Health Magazine	<a href="https://www.womenshealthmag.com/style/a19950758/best-tote-bags/">https://www.womenshealthmag.com/style/a19950758/best-tote-bags/</a>	Metro Tote
10/13/17	6 Things T's Editors Like Right Now	The New York Times Style Magazine	<a href="https://www.nytimes.com/2017/10/13/t-magazine/ibu-movement-follain-editors-picks.html">https://www.nytimes.com/2017/10/13/t-magazine/ibu-movement-follain-editors-picks.html</a>	Metro Tote
9/15/17	11 Stylish Backpacks You'll Actually Want to Wear	Women's Health Magazine	<a href="https://www.womenshealthmag.com/style/a19932940/travel-backpacks-for-women/">https://www.womenshealthmag.com/style/a19932940/travel-backpacks-for-women/</a>	Metro Backpack
9/15/17	5 Black Gym Bags That Are Cute Enough to Carry	Health	<a href="https://www.health.com/style/black-gym-bags">https://www.health.com/style/black-gym-bags</a>	Jim Bag

	Everywhere			
7/14/17	17 Weekend Bags to Take You Wherever You're Going This Summer in Style	People	<a href="https://people.com/style/shopping-buy-it-now-the-perfect-weekend-bag/">https://people.com/style/shopping-buy-it-now-the-perfect-weekend-bag/</a>	Metro Tote
6/23/17	The Perfect: Way to Pack	Elle	<a href="https://www.elle.com/life-love/g30009/the-perfect-way-to-pack/">https://www.elle.com/life-love/g30009/the-perfect-way-to-pack/</a>	Metro Tote
6/22/17	Royal Style on Your Budget! Shop the Affordable Pieces Royals Love	People	<a href="https://people.com/royals/cheap-royal-style-princess-kate-princess-sofia/">https://people.com/royals/cheap-royal-style-princess-kate-princess-sofia/</a>	Metro Tote
6/20/17	Battle Ready: These pieces provide just the edge you need to take your workouts to the next level.	Furthermore from Equinox	<a href="https://furthermore.equinox.com/articles/2017/06/battle-ready-camo">https://furthermore.equinox.com/articles/2017/06/battle-ready-camo</a>	Matt Bag
6/13/17	Best Gym Bags That Double As Weekend Duffles	Teen Vogue	<a href="https://www.teenvogue.com/gallery/best-gym-bags-that-double-as-weekend-duffles?verso=true">https://www.teenvogue.com/gallery/best-gym-bags-that-double-as-weekend-duffles?verso=true</a>	Large Sutton
6/8/17	How To Pull Off Taryn Toomey's Super Chic Post-Workout Style	Well + Good	<a href="https://www.wellandgood.com/good-looks/studio-to-street-outfit-post-workout-fashion-video-taryn-toomey/">https://www.wellandgood.com/good-looks/studio-to-street-outfit-post-workout-fashion-video-taryn-toomey/</a>	Metro Tote
6/7/17	Workout Wonders	Palm Beach Illustrated	<a href="https://www.palmbeachillustrated.com/2017/06/07/workout-wonders/">https://www.palmbeachillustrated.com/2017/06/07/workout-wonders/</a>	Metro Tote
6/2/17	27 Expensive Purses That Are Actually Worth Your Money	Buzzfeed	<a href="https://www.buzzfeed.com/elenamgarcia/expensive-handbags-that-are-totally-worth-the-investment">https://www.buzzfeed.com/elenamgarcia/expensive-handbags-that-are-totally-worth-the-investment</a>	Metro Backpack
5/17/17	Trend Finder: Camouflage	Accessories	<a href="https://www.accessoriesmagazine.com/trend-finder-camouflage-3/">https://www.accessoriesmagazine.com/trend-finder-camouflage-3/</a>	Small Sutton
5/16/17	13 Backpacks For When You're Traveling With Way Too Much Stuff	Pop Sugar	<a href="https://www.popsugar.com/fashion/Best-Backpacks-43540996?stream_view=1#photo-43541016">https://www.popsugar.com/fashion/Best-Backpacks-43540996?stream_view=1#photo-43541016</a>	Metro Backpack
4/17/17	Yogis, Rejoice:	Byrdie	<a href="https://thethirty/byrdie.co">https://thethirty/byrdie.co</a>	Matt Bag

	These Yoga Accessories Are Actually Chick		<a href="#"><u>m/stylish-yoga-accessories</u></a>	
2/23/17	Reboot your fitness resolution with new gear	The Seattle Times	<a href="https://www.seattletimes.com/explore/shop-northwest/reboot-your-fitness-resolution-with-new-gear/">https://www.seattletimes.com/explore/shop-northwest/reboot-your-fitness-resolution-with-new-gear/</a>	Metro Yoga Bag
2/23/17	In The Bag	Iron Man Magazine	<a href="https://www.ironmanmagazine.com/in-the-bag/">https://www.ironmanmagazine.com/in-the-bag/</a>	Sutton
2/12/17	The Hip Daddy V-Day Gift Guide. Read It.	Hip Daddy	<a href="http://hipdaddy.com/the-hip-daddy-v-day-gift-guide-read-it/">http://hipdaddy.com/the-hip-daddy-v-day-gift-guide-read-it/</a>	Metro Tote
1/30/17	2017 Travel Style Guide	Accessories Magazine	<a href="https://www.accessoriesmagazine.com/travel-2017-style-guide/">https://www.accessoriesmagazine.com/travel-2017-style-guide/</a>	Michael Garment Bag
1/26/17	15 of the best backpacks for every occasion	AOL	<a href="https://www.aol.com/article/lifestyle/2017/01/26/15-of-the-best-backpacks/21662706/">https://www.aol.com/article/lifestyle/2017/01/26/15-of-the-best-backpacks/21662706/</a>	Metro Backpack
1/20/17	The 11 Best Tote Bags for Work (Or, Um, Life)	Bravo TV	<a href="http://www.bravotv.com/logs/totes-bags-best-to-buy">http://www.bravotv.com/logs/totes-bags-best-to-buy</a>	Metro Tote
1/17/17	9 Valentine's Day Gifts That Fit Women Actually Want	Health	<a href="https://www.health.com/beauty/9-valentines-day-gifts-that-fit-women-actually-want">https://www.health.com/beauty/9-valentines-day-gifts-that-fit-women-actually-want</a>	Metro Tote
1/13/17	27 Awesome Gym Bags That Will Motivate You To Work Out	Self	<a href="https://www.self.com/gallery/gym-bags-that-motivate">https://www.self.com/gallery/gym-bags-that-motivate</a>	Metro Backpack
1/10/17	What Are the Best Gym Bags?	New York Magazine (The Strategist)	<a href="http://nymag.com/strategist/2017/01/best-gym-bag-for-men-women.html">http://nymag.com/strategist/2017/01/best-gym-bag-for-men-women.html</a>	Metro Tote
1/6/17	Hilary Picks New Year Gear	What 2 Wear Where	<a href="http://what2wearwhere.com/hilary-pick-exer-chic/">http://what2wearwhere.com/hilary-pick-exer-chic/</a>	Metro Tote
1/6/17	11 Editor-Approved Items That Will Transform Your New Year	InStyle	<a href="https://www.instyle.com/instyle/best-editor-tested-products">https://www.instyle.com/instyle/best-editor-tested-products</a>	Metro Tote
1/5/17	Style Spy: 14 Gym Bag Essentials	Delaware Today	<a href="http://www.delawaretoday.com/Delaware-Today/January-2017/Style-Spy-14-Gym-Bag-Essentials/">http://www.delawaretoday.com/Delaware-Today/January-2017/Style-Spy-14-Gym-Bag-Essentials/</a>	Metro Tote

1/3/17	8 Stylish Gym Bags You Can Carry Everywhere	Yahoo News	<a href="https://sg.news.yahoo.com/8-stylish-gym-bags-carry-230018971.html">https://sg.news.yahoo.com/8-stylish-gym-bags-carry-230018971.html</a>	Metro Tote
1/2/17	My Top 16 Purchases of 2016	Haute Off the Rack	<a href="https://hauteofftherack.com/my-top-16-purchases-of-2016/">https://hauteofftherack.com/my-top-16-purchases-of-2016/</a>	Metro Backpack
Date not found	12 Awesome Travel Bags for Every Trip	Food & Wine	<a href="https://www.foodandwine.com/fwslideshow/12-awesome-travel-bags-every-trip">https://www.foodandwine.com/fwslideshow/12-awesome-travel-bags-every-trip</a>	Metro Backpack
Date not found	8 Gym Bags for Every Type of Workout	Health	<a href="https://www.health.com/health/gallery/0,,20957733,00.html?slide=119388#119388">https://www.health.com/health/gallery/0,,20957733,00.html?slide=119388#119388</a>	Metro Tote

25. On occasion, bags bearing the MZ Wallace Trade Dress have been featured being carried by celebrities, such as Anne Hathaway, Daisy Ridley, and Lupita N'yongo. Pl. Exs. 73, 74, 117, 120, 146.

26. Some of the media coverage that MZ Wallace has received has specifically made mention of the distinctive nature of the MZ Wallace Trade Dress.

27. For example, in June 2017, People Magazine noted that “Queen Maxima of the Netherlands is a big fan of MZ Wallace, an N.Y.C.-based brand famous for its quilted totes” and published a photo of Queen Maxima carrying a MZ Wallace Metro Tote. Pl. Ex. 74 at MZW 4644.

28. In October 2017, in an article about MZ Wallace’s collaboration with artist Kerry James Marshall on a special edition Metro Tote, Essence Magazine noted that MZ Wallace is “known for its fierce and functional nylon quilted bags” and that the bags “can be spotted on the arms of well-dressed women (and men) near and far.” Pl. Ex. 87 at MZW4604.

29. The Daily Mom blog featured the MZ Wallace Metro Tote as the perfect gift for the active mom, noting that MZ Wallace’s bags were “meticulously crafted with their lightweight, durable and soft signature quilted oxford nylon.” Pl. Ex. 74 at MZW4617.

30. On February 24, 2018, Travel + Leisure featured the Metro Tote in its roundup of the “15 Best Tote Bags For All Your Travel Needs” and noted that the “quilting adds a bit of signature flair.” Pl. Ex. 75 at MZW5039.

31. In the August 2018 issue of Red Magazine, in a style favorites roundup entitled *The Fashion Influencer*, Oonagh Brennan, Red’s Fashion Director, stated that she would be “checking out MZ Wallace for its chic quilted holdalls” in preparation for the summer. Pl. Ex. 75 at MZW4854.

32. Most recently, Entrepreneur noted directly in the title of its November 15<sup>th</sup> article that MZ Wallace’s “Handbag Design Is Iconic.” Pl. Ex. 409.

STATE OF New York  
COUNTY OF NY

  
SARAH BROACH

Sworn to before me this 15  
day of November 2018  
  
Notary Public

DAVID LEVER  
Notary Public, State of New York  
No. 01LE6166345  
Qualified in New York County  
Commission Expires May 21, 2019